



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

MARVIN *et al.*

Appl. No.: 10/607,541

Filed: June 27, 2003

For: **Cushioning Sole for an Article of Footwear**

Confirmation No.: 6135

Art Unit: 3728

Examiner: John T. Kavanaugh

Atty. Docket: 2073.0080000/DRB/RPG

Fourth Supplemental Information Disclosure Statement

Mail Stop Amendment

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

Listed on accompanying IDS Forms are documents that may be considered material to the examination of this application, in compliance with the duty of disclosure requirements of 37 C.F.R. §§ 1.56, 1.97 and 1.98.

Applicants have listed publication dates on the attached IDS Forms based on information presently available to the undersigned. However, the listed publication dates should not be construed as an admission that the information was actually published on the date indicated.

Applicants reserve the right to establish the patentability of the claimed invention over any of the information provided herewith, and/or to prove that this information may not be prior art, and/or to prove that this information may not be enabling for the teachings purportedly offered.

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This statement should not be construed as a representation that a search has been made, or that information more material to the examination of the present patent

application does not exist. The Examiner is specifically requested not to rely solely on the material submitted herewith.

Applicants have checked the appropriate boxes below.

- ☐ 1. Statement under 37 C.F.R. 1.704(d). Each item of information contained in this Information Disclosure Statement was first cited in a communication from a foreign patent office in a counterpart application and this communication was not received by any individual designated in 37 C.F.R. § 1.56(c) more than thirty days prior to the filing of this information disclosure statement.
- ☐ 2. Filing under 37 C.F.R. § 1.97(b). This Information Disclosure Statement is being filed within three months of the date of filing of a national application other than a continued prosecution application (CPA), OR within three months of the date of entry of the national stage as set forth in 37 C.F.R. § 1.491 in an international application, OR before the mailing date of a first Office Action on the merits OR before the mailing of a first Office Action after the filing of a request for continued examination under 37 C.F.R. § 1.114. No statement or fee is required.
- ☒ 3. Filing under 37 C.F.R. § 1.97(c). This Information Disclosure Statement is being filed more than three months after the U.S. filing date AND after the mailing date of the first Office Action on the merits, but before the mailing date of a Final Rejection, or Notice of Allowance, or an action that otherwise closes prosecution in the application.

- ☐ a. Statement under 37 C.F.R. § 1.97(e)(1). I hereby state that each item of information contained in this Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(1).
- ☐ b. Statement under 37 C.F.R. § 1.97(e)(2). I hereby state that no item of information in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application and, to my knowledge after making reasonable inquiry, was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(2).
- ☒ c. Attached is our PTO-2038 Credit Card Payment Form in the amount of \$180.00 in payment of the fee under 37 C.F.R. § 1.17(p).
- ☐ 4. Filing under 37 C.F.R. § 1.97(d) This Information Disclosure Statement is being filed more than three months after the U.S. filing date and after the mailing date of a Final Rejection or Notice of Allowance, but before payment of the Issue Fee. Enclosed find our PTO-2038 Credit Card Payment Form in the amount of \$_____ in payment of the fee under 37 C.F.R. § 1.17(p); in addition:

- ☐ a. Statement under 37 C.F.R. § 1.97(e)(1). I hereby state that each item of information contained in this Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(1).
- ☐ b. Statement under 37 C.F.R. § 1.97(e)(2). I hereby state that no item of information in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application and, to my knowledge after making reasonable inquiry, was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(2).
- ☐ 5. The document(s) was/were cited in a search report by a foreign patent office in a counterpart foreign application. Submission of an English language version of the search report that indicates the degree of relevance found by the foreign office is provided in satisfaction of the requirement for a concise explanation of relevance. 1138 OG 37, 38.
- ☐ 6. A concise explanation of the relevance of the non-English language document(s) appears below in accordance with 37 C.F.R. § 1.98(a)(3).
- ☒ 7. In accordance with 37 C.F.R. § 1.98(a)(2), no copies of U.S. patents and patent application publications cited on the attached IDS Forms are submitted.

- ☐ 8. Copies of the documents were cited by or submitted to the Office in an IDS that complies with 37 C.F.R. § 1.98(a)-(c) in Application No. _____, filed _____, which is relied upon for an earlier filing date under 35 U.S.C. § 120. Thus, copies of these documents are not attached. 37 C.F.R. § 1.98(d).
- ☐ 9. It is expected that the examiner will review the prosecution and cited art in the parent application no(s). _____ in accordance with MPEP 2001.06(b), and indicate in the next communication from the office that the art cited in the earlier prosecution history has been reviewed in connection with the present application.

It is respectfully requested that the Examiner initial and return a copy of the enclosed IDS Forms, and indicate in the official file wrapper of this patent application that the documents have been considered.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



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Date: February 27, 2006

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FORM PTO-1449	<div style="display: flex; justify-content: space-between;"> <div> ATTY. DOCKET NO. 2073.0080000 FIRST NAMED INVENTOR Marvin et al. FILING DATE June 27, 2003 </div> <div> APPLICATION NO. 10/607,541 ART UNIT 3728 </div> </div>
<div style="display: flex; justify-content: space-around; align-items: center;"> <div> FEB 27 2006 U.S. PATENT & TRADEMARK OFFICE </div> <div> INFORMATION DISCLOSURE STATEMENT </div> </div>	

U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB-CLASS	FILING DATE
	US1	4,497	May 2, 1836	Vetter			
	US2	993,279	May 23, 1911	Scruggs			
	US3	1,094,211	Apr. 21, 1914	Jenoi et al.			
	US4	1,099,180	June 9, 1914	Karacsonyi			
	US5	4,907,355	Mar. 13, 1990	Allen et al.			
	US6	5,502,901	Apr. 2, 1996	Brown			
	US7	6,076,284	Jun. 20, 2000	Terlizzi			
	US8	D364,728	Dec. 5, 1995	Nozu et al.			
	US9	D384,796	Oct. 14, 1997	Smith, III			
	US10	D395,157	Jun. 16, 1998	von Conta			
	US11	D396,549	Aug. 4, 1998	von Conta et al.			
	US12	D398,746	Sep. 29, 1998	Rask			
	US13	D434,547	Dec. 5, 2000	Kim			
	US14	D439,730	Apr. 3, 2001	Merceron			
	US15	D459,865	Jul. 9, 2002	Urie et al.			
	US16	D460,247	Jul. 16, 2002	Liu et al.			
	US17	D461,040	Aug. 6, 2002	Urie et al.			
	US18	D461,298	Aug. 13, 2002	Urie et al.			
	US19	D468,085	Jan. 7, 2003	Baker			
	US20	D474,878	May 27, 2003	Matis			
	US21						

FOREIGN PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB-CLASS	TRANSLATION
	FP1						Yes No

OTHER REFERECES (Including Author, Title, Date, Pertinent Pages, etc.)

	OR	1	
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EXAMINER	DATE CONSIDERED
EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to Applicant.	